

## MONTANA TRESPASS LAWS

[http://data.opi.state.mt.us/bills/1999/mca\\_toc/index.htm](http://data.opi.state.mt.us/bills/1999/mca_toc/index.htm) and *Rights and Responsibilities of Landowners and Recreationists*, May 1996.

Montana's trespass law states that a member of the public has the privilege to enter private land only:

With explicit permission of the landowner or his agent, or  
When the landowner has failed to post a no-trespassing notice.

The recreationist must obtain permission from the landowner before entering posted lands.

### **70-16-301. Definition of Recreation**

"Recreational purposes," as used in this part, includes hunting, fishing, swimming, boating, waterskiing, camping, picnicking, pleasure driving, biking, winter sports, hiking, touring or viewing cultural and historical sites and monuments, spelunking, or other pleasure expeditions.

### **Courtesy**

Before discussing the law in detail, the Department of Fish, Wildlife and Parks stresses its belief that no amount of legislative action or rulemaking can do more to promote harmony between landowners and recreationists than the individual actions of the parties concerned. Because the success or failure of the law hinges on the behavior of landowners and recreationists, we cannot overemphasize the need for cooperation and mutual respect.

### **45-6-201. Trespass Legislation**

This legislation states that a member of the public has the privilege to enter or remain on private land by the explicit permission of the landowner or his agent or by the failure of the landowner to post notice denying entry onto the land. The landowner may revoke the permission by personal communication. (For more detail see H.B. 911 from the 1985 session.) The law states that notice denying entry must consist of written notice or of notice by painting a post, structure or natural object with at least 50 square inches of fluorescent orange paint. In the case of a metal fencepost, the entire post must be painted. This notice must be placed at each outer gate and all normal points of access to the property and wherever a stream crosses an outer boundary line.

The law also extends the authority of game wardens to enforce the criminal mischief, criminal trespass and litter laws to all lands being used by the public for recreational purposes.

### **National Parks, Indian Reservations, and Wildlife Refuges**

Certain national parks, Indian reservations and wildlife refuges may have special rules. Specific information may be obtained from the headquarters of the park, reservation or refuge involved.

### **70-16-302. Restriction on Liability of Landowner**

A person who uses property, including property owned or leased by a public entity, for recreational purposes, with or without permission, does so without any assurance from the landowner that the property is safe for any purpose if the person does not give a valuable consideration to the landowner in exchange for the recreational use of the property.

The landowner owes the person no duty of care with respect to the condition of the property, except that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes willful or wanton misconduct.

### **45-6-203. Trespass Penalty**

A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

### **Trespass Penalty**

Entry to private property from adjacent state lands without permission of the landowner or his agent is an absolute liability offense. A violator is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both.